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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,152	02/17/2004	Andreas Hefel	RBL0109	1277
832	7590	11/21/2007		
BAKER & DANIELS LLP 111 E. WAYNE STREET SUITE 800 FORT WAYNE, IN 46802			EXAMINER MAEWALL, SNIGDHA	
			ART UNIT 1615	PAPER NUMBER
			MAIL DATE 11/21/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/780,152

Applicant(s)

HEFEL, ANDREAS

Examiner

Snigdha Maewall

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 21-29 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Summary

1. Receipt of new claims, Applicant's Arguments/ filed on 09/25/2007 is acknowledged.

Claims 1-20 have been cancelled in this Application, new claims **21-29** are pending and will be examined on the merits.

Amendments to the Title and Abstract filed on 09/19/2007 have been entered.

The rejections made under 35 USC 112.2 have been withdrawn in view of Applicants newly submitted claims.

The Double Patenting rejection over copending Application NO. 10/595684 have been withdrawn in view of Applicant's submission of Terminal Disclaimer.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 23-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 24 recites the limitation "desired particle size". The term is indefinite and unclear. It is unclear as to what applicant means by "desired particle size".

Claim 23 recites the limitation coordinate bond between active substances and polysaccharide. It is unclear as to how a coordinate bond will be formed with active substances as claimed by the applicant such as "plant ingredients, coenzymes and amino acids as claimed in claim 23. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 21-29 are rejected under 35 U.S.C. 102(b) as being anticipated by GB 2257358 A.

GB 2257358 A discloses a composition comprising vitamins, enzymes, coenzymes, minerals, trace elements and/or microorganisms that are embedded, separately with regard to function, in carrier substances with formation of protective films against harmful effects so that, with sufficient moisture absorption, in vivo and in vitro biocatalytic processes can be initiated and controlled. Suitable protective substances

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are preferably sodium salts and potassium salts of silicic acid and nonionic polysaccharides, in particular from the family consisting of the galactomannans (page 2, paragraph 2 and **claim 5**). The process of mixing and drying is depicted on page 4, paragraph 4, page 7, paragraph, 1 and in example 2). It is further disclosed that the **granulation** can be influenced by the spraying rate and the enzyme powders are obtained in relatively narrow particle size ranges after drying (page 8, paragraph 1). It is to be noted that claims 25-28 provide the functional limitations once the active substance is introduced in to human or animal, since the claimed compound is similar to the compound disclosed in the prior art, the functional limitations are considered inherent to the process.

Response to Arguments

6. Applicant's arguments filed 09/19/2007 have been fully considered but they are not persuasive. Applicant argues " the reference does not teach the claimed process.....metabolism of human or animal." Applicant's arguments are not persuasive , in response to this argument that the prior art does not teach the claimed process, the examiner points to the paragraph 2 and claim 5 which states that vitamins, enzymes, coenzymes, minerals, trace elements and/or microorganisms that are embedded, separately with regard to function, in carrier substances with formation of protective films against harmful effects so that, with sufficient moisture absorption, in vivo and in vitro biocatalytic processes can be initiated and controlled. Galactomannans are used in the process (see page 2, paragraph 2). In terms of the coenzymes which

can be embedded in the carrier material, it is stated in the prior art that the sensitivity of the highly complicated polypeptide complexes makes it appear appropriate to have available, quantitatively separate and qualitatively protected enzymes for biocatalytic processes. Thus the importance of introducing the active substances separately in order to maintain the qualitative and quantitative parameters of the substance is depicted in the prior art. Further emphasis on this limitation is evident from page 4, paragraph 2. The process of mixing, drying and subsequent drying is depicted in paragraph 4 on page 4. Example 2 depicts the claimed process of mixing, drying and sieving to the desired particle size. It should be noted that Applicant has not defined specific particle size, in the absence of such; the generic recitation of particle will read on the claimed desired particle sizes. Furthermore, the preamble of the claim is directed to a "process for providing a human or animal with atleast two active substances", the prior art cited teaches the same as discussed above in the rejection.

The rejection is therefore maintained.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Snigdha Maewall whose telephone number is (571)-272-6197. The examiner can normally be reached on Monday to Friday; 8:30 a.m. to 5:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on (571) 272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-

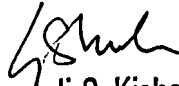
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273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Gollamudi S. Kishore, PhD
Primary Examiner
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